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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,097	11/14/2003	Scott C. Harris	Barcode-D1	9523
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SCOTT C HARRIS Law Office of Scott C Harris, Inc P O BOX 1389 Rancho Santa Fe, CA 92067-1389			EXAMINER WALSH, DANIEL I	
			ART UNIT 2887	PAPER NUMBER
			NOTIFICATION DATE 02/17/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/714,097

Applicant(s)

HARRIS, SCOTT C.

Examiner

DANIEL WALSH

Art Unit

2887

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-9-09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 29, 31, 49, 50 and 59-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 29, 31, 49, 50 and 59-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date 7-19-09, 8-11-09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 50 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 50 recites the limitation "said numerical information indicative of the barcode that is received from the remote server" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 50 recites said numerical information, but such limitations have been removed from the independent claim. Accordingly, it is unclear what is currently being recited.

Appropriate clarification/correction is requested.

Claim Objections

3. Claim 50 is objected to because of the following informalities: Claim 50 is listed as an amended claim and a cancelled claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 18, 29, 30 and 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler, as discussed in the previous Office Action, in view of /Tracy et al., as discussed in the previous Office Action.

Re claim 18, Schuessler teaches a barcode reader to obtain an image of a dual type barcode with a first part that is interpreted by a first barcode scanning process to obtain first information and a second part which is interpreted by a second barcode scanning process to obtain second information that has more information than first information (FIG. 2 and para [0019]+ where Schuessler teaches a linear and 2d part of a composite barcode, wherein the linear part includes product identification number and the 2d part include supplementary product information, the second part being used for increased data storage). Schuessler teaches old (laser/linear) barcode readers could read only the first part (linear portion of the code) but it is understood that to read both, image captured would be used (CCD/camera).

Schuessler is silent to the portable device having a display unit, the receiving and display clause, and telephone call making.

Tracy et al. teaches such limitations (col 3, lines 30+ and col 2, lines 60+, FIG. 7e, element 110). Further, col 2, lines 20+ teaches fetching information obtained from a remote

server (host) that indicates information based on a meaning represented by the barcode and where the barcode scan data is directly input to the remote server/host to retrieve the pricing information, which is additional information beyond at least one part of the barcode, as the Examiner notes that pricing information is normally not stored on the barcode so that pricing is updated on the host/server so that barcodes don't have to be replaced each time a price is updated.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler with those of Tracy et al.

One would have been motivated to do this in order to have the convenience of a portable reader device with also displaying and telephone capability for versatility.

Additionally, the Examiner notes that Tracy et al. teaches internet connectivity (FIG. 7e) where a user is able to use the terminal to access the internet. Therefore, this is alternatively interpreted as meeting the claimed receiving and displaying clause, as fetching related information from the internet meets the claim limitations in the clause because the clause does not require the output of the decoded data be directly input to the remote server for fetching the additional data. Therefore, even generic internet searches initiated by the user for item related information meets the claimed limitations in the clause.

Re claim 29, the limitations have been discussed above.

Re claim 30, as discussed above, the linear (1d) and non linear (2d barcode) are processed via image capture and therefore are processed in different directions, due to the nature of a 1d and 2d barcode.

Re claim 60, as discussed above, information about the first and second parts are discussed above, wherein the claim does not necessitate a remote server, and hence standard and additional information as discussed above can meet the limitations, as an example. Re claims 61-62 the limitations have been discussed above.

2. Claims 19 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al., as discussed above, in view of Ogasawara, as discussed in the previous Office Action.

The teachings of Schuessler/Tracy et al. have been discussed above.

Schuessler/Tracy et al. are silent to using a camera to obtain a video. Tracy et al. teaches a portable telephone device, but is silent to video camera.

The Examiner notes that the use of video cameras/moving video capture in portable phones is well known and conventional in the art for increased capability/versatility of the device.

Nonetheless, Ogasawara teaches (para [0017]) that instead of a phone/scanner combination that a videophone can be used which has more use as it would become a commodity item that is suitable for use as both a communications device/phone and also an electronic shopping terminal. Para [0123] teaches video camera video capture.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Tracy et al. with those of Ogasawara in order to provide a more versatile and useful device, consistent with the functionality of portable telephones as well. The Examiner notes that telephone calls can be interpreted as being made whenever desired.

Re claim 59, the numerical information from scanning can be interpreted as a pointer to data storage in the server, from which additional information is fetched. Though silent to a database, the Examiner notes that a database is an obvious expedient for data storage/organization.

3. Claims 31 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al., as discussed above, in view of Kaufman et al., as cited in the previous Office Action.

The teachings of Schuessler/Tracy et al. have been discussed above.

Schuessler/Tracy et al. are silent to second information from a color/grayscale.

Kaufman et al. teaches color being used to store information in a barcode (claims 1-8+).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Tracy et al. with those of Kaufman et al.

One would have been motivated to do this to provide additional data storage along with robustness, reduced errors and alternative identification, realizing the grayscale can be applied to either of first and second parts for expected results.

4. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al, as discussed above, in view of Swartz et al., as discussed in the previous Office Action.

Re claim 49, the teachings of Schuessler/Tracy et al. have been discussed above.

Schuessler/Tracy et al. is silent to the advertisement as claimed.

Swartz et al. teaches such limitations (col 7, lines 41+).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Tracy et al. with those of Swartz et al.

One would have been motivated to do this to provide more data for advertisements by linking to websites, thereby providing additional data/marketing.

Alternatively, as discussed above, with internet capability, a user can obtain information from a remote server about the advertisement, just by using the internet, and not using the barcode as input into the server.

5. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuessler/Tracy et al./Ogasawara, as discussed above, in view of Swartz et al., as discussed above.

Re claim 50, the teachings of Schuessler/Tracy et al./Ogasawara have been discussed above.

Schuessler/Tracy et al./Ogasawara et al. are silent to the advertisement as claimed.

Swartz et al. teaches such limitations (col 7, lines 41+).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Schuessler/Tracy et al./Ogasawara with those of Swartz et al.

One would have been motivated to do this to provide more data for advertisements by linking to websites, thereby providing additional data/marketing.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-892, including US 6398117 which teaches 1d and 2d merged barcodes and US 20020194075 which teaches coupon/advertisements and US 5978773 which teaches a pointer and database through a database retrieving the URL corresponding to the UPC code, conventional in the art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/
Primary Examiner, Art Unit 2887